IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE CIVIL JURISDICTION

Writ Petition No.2274 of 2005

Manoj M Bhagwat ..Petitioner

vs

Smt Kamal B Pawar. Respondent

Mr G S Godbole for petitioner

CORAM: A.P.SHAH J.

Dated 15.9.2005

P.C:

. Heard Mr.Godbole, learned counsel appearing for the petitioner. The courts below have recorded a concurrent finding of fact that the landlord has failed to prove that the tenant is guilty of causing nuisance or annoyance to the landlord or adjoining and neighbouring occupiers. Mr. Godbole however, relied upon the admission of the tenant that she does not pull on well with her son and daughter in law and due to that quarrels and fights taken place between them frequently. It is not possible to pass an eviction decree solely on the basis of the alleged admission of the tenant. It has been recorded by the courts below that the pleadings are absolutely vague and it is not clear whether the landlord resides in the same chawl. No other occupier of the chawl has been examined. Although a case was made out that the tenant has

filed false complaint against the landlord’s uncle. However, there is nothing on record to suggest that the uncle of the landlord is residing with him.

. In order to attract provisions of section l3(l)(c) it is necessary to prove that the alleged nuisance is of gross and unusual character, frequent, and persistent and that it would not be possible for the affected person or persons to lead normal life and it is such that one cannot ordinarily expect in household. In the present case the landlord has failed to lead evidence to establish such frequent, persistent, gross and unusual act of nuisance. Petition is dismissed.